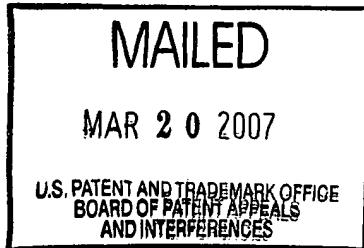


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte DEAN MOSES et al.

Application 10/091,513

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on December 1, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below:

An examination of the Image File Wrapper (IFW) reveals that an Information Disclosure Statement was filed on October 10, 2006 and also on December 19, 2006. It is not apparent from the record whether the examiner considered the statements submitted or notified appellants regarding why their submissions did not meet the criteria set forth in 37 CFR

§§ 1.97 and 1.98. A communication notifying appellants of the Primary Examiner's decision is required.

In addition, on August 30, 2005, an Order Returning Undocketed Appeal to Examiner was mailed which ordered that the application be returned to the examiner:

- 1) to hold the Appeal Brief filed February 17, 2005 defective;
- 2) for notification to appellants to file a substitute Appeal Brief in compliance with 37 CFR § 41.37;
- 3) for consideration of the substitute Appeal Brief;
- 4) for a determination regarding the status of claim 44;
- 5) to vacate the Examiner's Answer mailed April 8, 2005, and issue a new Examiner's Answer in compliance with the new rules which went into effect on September 13, 2004; and
- 6) for such further action as may be appropriate.

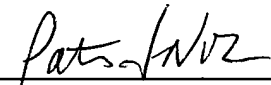
On November 28, 2005, a new Appeal Brief was filed which is now in compliance with 37 CFR § 41.37. In response, an Examiner's Answer was mailed on January 10, 2006 which is also in compliance with the new rules.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) for consideration of the IDS's filed on October 10, 2006 and December 19, 2006, and written notification to appellants regarding the Primary Examiner's decision(s); and
- 2) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 
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